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HUSBAND AND WIFE—CAPACITY TO SUE ONE ANOTHER.—A wife brought an action against her husband for assault under a statute designed to place the wife on an equal legal status with the husband, but containing no express provision enabling one to sue the other. *Held*, the action will lie. *Brown* v. *Brown* (Conn.), 89 Atl. 889.

By the fiction of the complete unity of husband and wife, neither could sue the other at common law. Peck, Domestic Relations, 120. Modern statutes, similar in their provisions to that in the principal case, have given the married woman the legal status of femme sole in her relation to third persons. But as between husband and wife the exact scope of these statutes is not settled. It has been held that the wife may sue her husband in ejectment to recover her separate property. Crater v. Crater, 118 Ind. 521, 21 N. E. 290; Wood v. Wood, 18 Hun (N. Y.) 350. See also, 3 Am. & Eng. Ann. Cas. 145 (note). A wife has been allowed to sue a partnership of which her husband was a member. Benson v. Morgan, 50 Mich. 77, 14 N. W. 705. In some jurisdictions a wife may acquire title by adverse possession against her husband. Union Oil Co. v. Stewart (Cal.), 110 Pac. 313; McPherson v. McPherson, 75 Neb. 830, 106 N. W. 991.

As regards personal torts the weight of authority allows neither consort to sue the other in the absence of express statutory provision. Thompson v. Thompson, 218 U. S. 611; Peters v. Peters, 42 Iowa 182; Abbe v. Abbe, 22 App. Div. 483, 48 N. Y. Supp. 25.

On principle it would seem, that while these statutes have the effect of completely emancipating the wife, they do not effect the settled public policy on which the doctrine is based, that the peace and happiness of the family relation is endangered by allowing suits by one against the other for personal torts. Again, these statutes being in derogation of the common law, should receive a strict construction.

Insurance—Implied Waiver of Forfeiture.—The insured having disclosed the circumstances of the fire and submitted proofs of loss, the insurer declined to pay on the ground of breach of condition as to keeping gasoline on the premises, but after the institution of the action, defended on other grounds. Held, the insurer has waived all grounds of forfeiture except the specific ground named in the declination to pay. Ward v. Queen City Fire Ins. Co. (Ore.), 138 Pac. 1067. See Notes, p. 628.

INTOXICATING LIQUORS—ILLEGAL SALE—WHAT CONSTITUTES A SALE.—A statute provided a penalty for the sale of liquor. The defendant lent a friend liquor to be returned in kind. *Held*, this is a sale within the statute. *Howard* v. *State* (Tex.), 163 S. W. 429.

This decision is in accord wih a long line of Texas cases on the same point. Tombeaugh v. State, 50 Tex. Crim. App. 286, 98 S. W. 1054. Under similar statutes lending liquor has been held to be a sale. Com. v. Abrams, 150 Mass. 393, 23 N. E. 53. Under a statute using the terms "sell, barter, or exchange" a loan has been held to be a sale. Clark v. State, 167 Ala. 101, 52 So. 893.

In other jurisdictions it has been held that a bona fide loan lacks the